



Application No. 09/574,569
Attorney Docket No.: 350725-991100 (2101197)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of Robert I.G. MCLEAN, et al.

Application No. 09/574,569

Attorney Docket No. 350725-991100 (2101197)

Filed: May 17, 2000

For: CONTINUOUSLY UPDATED DATA
PROCESSING SYSTEM FOR
MEASURING FINANCIAL VALUE
CREATION

Group Art Unit: 3628

Examiner: Dass, Harish T.

APPEAL BRIEF

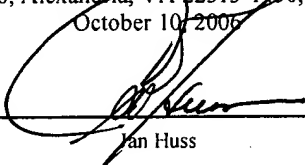
2000 University Avenue
East Palo Alto, CA 94303-2248
(650) 833-2000

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as FIRST CLASS MAIL in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on:

October 10, 2006


Jan Huss

Dear Sir/Madam:

This is a brief for an appeal from a Final Office Action dated April 7, 2006, and from a Notice of Appeal that was filed on July 7, 2006. This brief is being filed with a petition for a one month extension of time.

TABLE OF CONTENTS

I. REAL PARTY IN INTEREST	3
II. RELATED APPEALS AND INTERFERENCES.....	3
III. STATUS OF THE CLAIMS	3
IV. STATUS OF AMENDMENTS	3
V. SUMMARY OF CLAIMED SUBJECT MATTER	3
VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL	7
VII. APPELLANT’S ARGUMENT	8
A. <u>Claims 1-3, 5-11, 13-24, 26-30, 32-39, 41-46, and 48-52 are patentable over the combination of Eder and Phillips</u>	8
1. The Examiner bases his rejections largely on his own supposition, and improperly supplements the record with statements and examples that do not appear in the prior art references and have no evidentiary support.....	8
2. Eder does not disclose the present invention’s method of determining a present value of future financial value streams.....	11
3. Phillips fails to disclose modeling future value streams of a business enterprise based on the occurrence or non-occurrence of “events”	17
4. There is no suggestion or motivation for the proposed combination of Eder and Phillips.	22
B. <u>Claims 4, 12, 25, 31, 40, and 47 are patentable over the combination of Eder, Phillips, and Pilipovic</u>	23
C. <u>Conclusion</u>	27
CLAIMS APPENDIX.....	28
EVIDENCE APPENDIX.....	47
RELATED PROCEEDINGS APPENDIX.....	48

I. REAL PARTY IN INTEREST

The real party in interest in this appeal is the assignee of this application, the Canadian Institute of Chartered Accountants.

II. RELATED APPEALS AND INTERFERENCES

Appellant is unaware of any related appeals or interferences.

III. STATUS OF THE CLAIMS

The application was originally filed with Claims 1-52. Claims 1-52 remain pending and all stand rejected. This is an appeal of rejected Claims 1-52. Claims 1-52 are reproduced and attached in the Claims Appendix.

IV. STATUS OF AMENDMENTS

All offered amendments have been entered. The claims appear before the Board as they were finally rejected (Claims 1-52) and are attached in the Claims Appendix.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1 recites a method of processing data relating to the performance of a business enterprise in creating value, the method comprising developing a data structure that includes assumed variables and, for each assumed variable, future or past events that influence the assumed variable. *See, e.g., Appellant's Specification as filed at p. 3, ll. 8-12; Figs. 7-9.* The method of Claim 1 further comprises determining a first present value of the future financial value stream by aggregating the influences attributable to the assumed variables and adjusting the future financial value stream for a time value of money. *See, e.g., id. at p. 3, ll. 12-15.* The method further comprises receiving data from a user indicating the occurrence or non-occurrence of one or more of the future events. *See, e.g., id. at p. 3, ll. 15-18.* The method further comprises determining, in response to the occurrence of one or more of the future events,

whether one of more of the assumed variables has changed and whether the future financial value stream has changed. *See, e.g., id.* The method further comprises determining a second present value of the future financial stream, taking into account any assumed variables that changed in response to the occurrence or non-occurrence of the future events. *See, e.g., id. at p. 3, ll. 18-20.*

Claim 9 also recites a method of processing data relating to the performance of a business enterprise in creating value, the method comprising developing a data structure that includes plurality of future financial value streams, where each future financial value stream has assumed variables that have an influence on a future financial value stream of the business enterprise, and where each assumed variable is linked to future or past events that influence the assumed variable. *See, e.g., id. at p. 3, ll. 21-25; Figs. 7-9.* The method of Claim 9 further comprises determining a present value for each future financial value stream by aggregating the influences attributable to the assumed variables and adjusting for a time value of money. *See, e.g., id. at p. 3, ll. 25-28.* The method further comprises aggregating the present value of each future financial value stream to form a first aggregate present financial value of the plurality of future financial value streams. *See, e.g., id. at p. 3, ll. 28-30.* The method further comprises receiving data from a user indicating the occurrence or non-occurrence of one or more of the future events. *See, e.g., id. at p. 3, l. 30 - p. 4, l. 2.* The method further comprises determining, in response to the occurrence of one or more of the future events, whether one of more of the assumed variables has changed and whether the future financial value stream has changed. *See, e.g., id.* The method further comprises forming a second aggregate present value of the plurality of future financial value streams taking into account any assumed variables that changed in response to the occurrence of non-occurrence of the future events. *See, e.g., id. at p. 4, ll. 2-5.*

Claim 17 also recites a method of processing data relating to the performance of a business enterprise in creating value, the method comprising developing a data structure that includes assumed variables and, for each assumed variable, future or past events that influence the assumed variable. *See, e.g., id. at p. 4, ll. 6-9; Figs. 7-9.* The method of Claim 17 further comprises determining a first present value of the future financial value stream as of a first specified date by aggregating the influences of the assumed variables and adjusting the future financial value stream for a time value of money. *See, e.g., id. at p. 4, ll. 9-12.* The method further comprises determining a second present value of the future financial value stream as of a second specified date in a similar manner. *See, e.g., id. at p. 4, ll. 12-16.* The method further comprises determining a variance between the first present value and the second present value taking into account a time value of money between the first and second dates. *See, e.g., id. at p. 4, ll. 16-17.* The method further comprises attributing the variance between the present values to events that occurred between the first and second specified dates. *See, e.g., id. at p. 4, ll. 17-19.*

Claim 21 also recites a method of processing data relating to the performance of a business enterprise in creating value, the method comprising selecting a stakeholder perspective for determining a present value of a future financial value stream. *See, e.g., id. at p. 4, ll. 20-23.* The method of Claim 21 further comprises developing a data structure that includes assumed variables that have an influence on the future financial value stream from the perspective of the selected stakeholder and, for each assumed variable, future or past events that influence the assumed variable. *See, e.g., id. at p. 4, ll. 23-26; Figs. 7-9.* The method further comprises determining a present value of the future financial value stream from the perspective of the selected stakeholder by aggregating the influences of the assumed variables and adjusting the future financial value stream for a time value of money. *See, e.g., id. at p. 4, ll. 26-30.*

Claim 29 also recites a method of processing data relating to the performance of a business enterprise in creating value, the method comprising developing a data structure that includes assumed variables and, for each assumed variable, future or past events that influence the assumed variable. *See, e.g., id. at p. 5, ll. 1-4; Figs. 7-9.* The method of Claim 29 further comprises identifying and segregating risks specific to the future financial value stream from risks specific to the business enterprise or industry as a whole. *See, e.g., id. at p. 5, ll. 4-6.* Probabilities are assigned to the events or assumed variables based on the identified risks. *See, e.g., id. at p. 5, ll. 6-7.* The method further comprises determining a first present value of the future financial value stream by aggregating the influences of the assumed variables, adjusting the future financial value stream by the assigned probability, and further adjusting the future financial value stream for a time value of money. *See, e.g., id. at p. 5, ll. 7-11.* The method further comprises receiving data from a user indicating the occurrence or non-occurrence of one or more of the future events. *See, e.g., id. at p. 5, ll. 11-13.* The method further comprises determining, in response to the occurrence of one or more of the future events, whether one of more of the assumed variables has changed and whether the future financial value stream has changed. *See, e.g., id.* The method further comprises determining a second present value of the future financial stream, taking into account any assumed variables that changed in response to the occurrence or non-occurrence of the future events. *See, e.g., id. at p. 5, ll. 13-16.*

Claim 37 also recites a method of processing data relating to the performance of a business enterprise in creating value, the method comprising developing a data structure that includes assumed variables and, for each assumed variable, future or past events that influence the assumed variable. *See, e.g., id. at p. 5, ll. 17-20; Figs. 7-9.* The method of Claim 37 further comprises determining a present value of the future financial value stream by aggregating the

influences of the assumed variables and adjusting the future financial value stream for a time value of money, wherein the events and assumed variables collectively form a base case scenario for the business enterprise and the first present value of the future financial value stream is based upon the base case scenario. *See, e.g., id. at p. 5, ll. 20-25.* One or more of the assumed variables is changed to form an alternate scenario including the changed assumed variables. *See, e.g., id. at p. 5, ll. 25-27.* The present value of the future financial stream is determined based upon the alternate scenario and is compared to the first present value based upon the base case scenario. *See, e.g., id. at p. 5, ll. 27-30.*

Claim 44 also recites a method of processing data relating to the performance of a business enterprise in creating value, the method comprising developing a data structure that includes assumed variables and, for each assumed variable, future or past events that influence the assumed variable. *See, e.g., id. at p. 5, ll. 1-5; Figs. 7-9.* The method of Claim 44 further comprises determining a first present value of the future financial value stream by aggregating the influences of the assumed variables, adjusting the future financial value stream by for a time value of money. *See, e.g., id. at p. 5, ll. 5-8.* A series of updated present values of the future financial value stream are repeatedly determined and presented. *See, e.g., id. at p. 5, ll. 8-9.* Each updated present value is determined from the events and assumed variables in the data structure, including any assumed variables that have changed in response to the occurrence or non-occurrence of the future events. *See, e.g., id. at p. 5, ll. 9-11.*

VI. GROUND S OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed on appeal are as follows:

- 1) Claims 1-3, 5-11, 13-24, 26-30, 32-39, 41-46, and 48-52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,321,205 to Eder, in view of U.S. Patent No. 6,792,399 to Phillips, et al.
- 2) Claims 4, 12, 25, 31, 40, and 47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,321,205 to Eder, in view of U.S. Patent No. 6,792,399 to Phillips, et al., and in further view of U.S. Patent No. 6,456,982 to Pilipovic, et al.

VII. APPELLANT'S ARGUMENT

A. Claims 1-3, 5-11, 13-24, 26-30, 32-39, 41-46, and 48-52 are patentable over the combination of Eder and Phillips

The Examiner has rejected Claims 1-3, 5-11, 13-24, 26-30, 32-39, 41-46, and 48-52 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,321,205 to Eder (hereinafter "Eder"), in view of U.S. Patent No. 6,792,399 to Phillips, et al. (hereinafter "Phillips"). *Office Action of April 7, 2006 at p. 2.*

The Board should overturn these rejections because neither Eder nor Phillips, either alone or in combination, teach or suggest every element recited in each of the claims, because Phillips teaches away from claimed invention, and because there is no motivation or suggestion to combine the relevant teachings of Eder and Phillips.

1. **The Examiner bases his rejections largely on his own supposition, and improperly supplements the record with statements and examples that do not appear in the prior art references and have no evidentiary support.**

In the Final Office action of April 7, 2006, the Examiner repeatedly relies on his own conclusory statements and "examples" that have no evidentiary support on the record. This

contravenes Federal Circuit precedent. *In re Zurko*, 258 F.3d 1379 (Fed. Cir. 2001). The Examiner's improper attempts to supplement the record, as discussed below, should be summarily disregarded by the Board.

In order to support a proposed combination under §103, an Examiner must cite to objective evidence in the record. An examiner may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumption or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. *See In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 177 (CCPA 1967), *cert. denied*, 389 U.S. 1057 (1968). Moreover, as the MPEP warns, "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art." M.P.E.P. 2144.03 (emphasis in original). Further, "It is never appropriate to rely solely on 'common knowledge' in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based." *Id. citing In re Zurko*, 258 F.3d 1379, 1385, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001).

Despite these well established principles, the Examiner has repeatedly supplemented the record with his own conjecture and statements. For example, at page 3, the Examiner cites a portion of Phillips and suggests it discloses a step admittedly missing from Eder relating to the determination of the present value of future financial value streams based on the occurrence or non-occurrence of one or more future events. *Office Action of April 7, 2006 at page 3-4*. Particularly, the Examiner states:

Phillips discloses this step to [C25 L24-L36; C64 L36 to C66 L7 – see anticipated and unexpected] to estimate the present value of the expected firm (corporation, future value of commodity or an item) specific information (increase/decrease future value/income, sale or etc.) For example: Exxon's future value based on the war in Iraq if the war continues for another few years or stops next month/year. Similarly, the price of oil as a commodity, it well keeps increasing or fall once the war is over or OPEC will make changes to its production. Example 2: Price of US corn in international market depends on the weather and harvest in other countries and for future option prices some of the factors are assumed, it may happen or it may not. Example 3: No one in Merck Pharmaceutical new [sic] that their drug Vioxx will be off the market due to raised questions about **heart problems**. *Id.* at pages 3-4. (emphasis in original).

None of these examples appear in Phillips and appear to have been wholly the creation of the Examiner. Furthermore, none of these examples have any relation or correspondence to the “events” discussed in the citation of Phillips on which the Examiner relies. As discussed below in Sub-Section VII.A.3., these “prediction events” are contests in which multiple forecasters provide their predictions with respect to a stock. *See e.g., Phillips at col. 7, lines 24-67.*

The Examiner ends his analysis of claim 1 with a bare, conclusory assertion that it would have been obvious to modify the disclosure of Eder and include occurrence or non-occurrence of one or more of the future “events” in Phillips to analyze the impact of events on the future value of the corporation of a commodity. In doing so, the Examiner mischaracterizes the “events” of Phillips, fails to cite or even mention a motivation to combine the references, and improperly suggests that Eder could be modified to analyze the impact of events on the future value of a “commodity.”¹ Such attempts to craft a rejection without evidentiary support must be summarily disregarded. *See also, for example, Office Action of April 7, 2006 at pp. 7-8, 15-16; In re Zurko, supra.*

The Examiner's latest set of arguments rely even more heavily on his own conjecture and assumptions. *See id.* at pp. 22-26. For example, the Examiner impermissibly enhances the

¹ As discussed in Sub-Section A.2., Eder only discloses analyzing the present value of an entire business enterprise and does not discuss determining the value of individual value streams of an enterprise, much less a commodity.

disclosure of Eder when he, with no evidentiary support, characterizes business value drivers as including “income from brand name such as Coca Cola classic, Aqua, Canada Dry in different years with expected rate of return [sic].” *Id.* at p. 23. He goes on to say, with absolutely no evidentiary basis in the prior art or otherwise, “it is well known to one of ordinary skill in the art of finance that change in interest rate has a single biggest impact on future value of incomes derived from annuities, mortgage and loans (from lender’s prospective), etc. [sic].” *Id.* at p. 24. His next sentence is also entirely unsupported by any evidence, prior art or otherwise, despite being a broad economic presumption, the accuracy of which is questionable at best: “Particularly change in FED rate which may happen or not has the biggest impact on the market as well as companies (income/payments) [sic].” *Id.* The Examiner’s speculation continues with another “example” that has no support in the prior art and is wholly his own creation: “For example, a company wants to borrow money for company improvement, it can calculate the company’s income from different brands to show the lender that the company is sound and is able to pay the lender based on above annuities [sic].” *Id.* at p. 25. Again, such attempts to craft a rejection without evidentiary support must be summarily disregarded.

2. Eder does not disclose the present invention’s method of determining a present value of future financial value streams.

Each of the present application’s independent claims include limitations regarding the determination of a present value of a future financial *value stream*.² Eder does not determine the

² See, for example and without limitation, Claim 1: “determining, by use of a computer system, a first present value of the future financial value stream of the business enterprise...”; Claim 9: “determining, by use of a computer system, a present value of each future financial value stream...”; Claim 17: “determining, by use of a computer system, a first present value of the future financial value stream of the business enterprise...”; Claim 21: “determining, by use of a computer system, a present value of the future financial value stream of the business enterprise...”; Claim 29: “determining, by use of a computer system, a first present value of the future financial value stream of the business enterprise...”; Claim 37: “determining, by use of a computer system, a present value of the future financial value stream of the business enterprise...”; Claim 44: “determining, by use of a computer system, a first present value of the future financial value stream of the business enterprise...”

value of individual future value streams of a business enterprise, but rather focuses on determining the overall worth of a business enterprise at a point in time. The Examiner has not cited any evidence that shows otherwise.

(a) Eder does not deal with future financial value streams as defined in the present invention

In the Examiner's April 7, 2006 Office Action, he discusses present value formulas generally (pages 23-25) and, without any supporting explanation, relates "business value drivers" in Eder to "financial value streams" of the present invention (page 23, "business value drivers (financial value streams)"). But there is no basis in Eder to associate business value drivers with financial value streams. Indeed, Eder shows that these two concepts are quite different.

The present invention focuses on the analysis of value streams. A value stream for a business enterprise is defined in the present specification as "an aggregation of financial and non-financial benefits flowing to the business and arising from a minimum set of activities that are necessary to give rise to the benefits." *Appellant's Specification as filed at p. 9, ll. 22-24.* The present specification points out that value streams can be historical or future, and financial or non-financial.

As an example of how a value stream works in the present invention, consider an individual drug that forms part of the portfolio of a pharmaceutical company. The value stream associated with that specific drug can be modeled as a stream of financial benefits flowing to the organization over time. In addition, if the drug happened to be a cure for cancer, there could also be non-financial benefits, such as enhancement of the company's reputation. In both cases, the value streams could be related to a minimum set of activities required to give rise to the benefits: in this case, the company's development and promotional activities related to the specific drug.

A model according to the present invention for such a pharmaceutical company would be concerned with analyzing the value streams associated with each individual drug in the company's portfolio.

The business value drivers in Eder, by contrast, are entirely different. Eder defines "value drivers" as the "item variables" and "item performance indicators" that drive revenue, expense, and changes in capital. (23:46-54) The "items variables" in Eder are, for example, "the numeric and date field data" in data records containing a customer number that falls within a pre-determined range of customer numbers. (24:9-17) These data records are retrieved from the business's primary databases including: the basic financial systems database, the operation management system database, the advanced financial system database, the sales management system database, the human resource information system database, and external databases found on the internet by item. (Eder at 24:1-9.) The "item performance indicators" are numbers calculated from these numeric and date fields. (Id. at 24:28-30.) For numeric data fields, the item performance indicators include cumulative total value, the period to period rate of change in value, the rolling average value, and the time lagged value of each numeric item variable. (Id. at 24:20-24.) For date fields, the item performance indicators include time since last occurrence, cumulative time since first occurrence, average frequency of occurrence, and the rolling average frequency of occurrence. All item variables and item performance indicators are stored in the revenue driver table. (Id. at 24:17-19, 30-33.)

In short, the value drivers in Eder are simply collections of data that are mined from company databases and represent past information and past transactions. As such, they are distinguishable from the future value streams in the present invention. The future value streams in the present invention are not created by mining data from company databases. Rather, their

creation depends on defining relationships between key variables and *future* events. In this respect, the value streams look toward future events rather than past transactions. Thus, the value streams cannot be analyzed simply by mining company databases for historical performance indicators. For example, a future value stream in the present invention might represent the benefits that will flow to a pharmaceutical company based on its development and promotion of a specific drug. These benefits would not be recorded in any company database because they have not yet materialized. By definition, a future financial value stream is influenced by future events not included in or contemplated by a value driver.

These differences are entirely consistent with the fundamentally different goals of Eder and the present invention. Eder focuses on calculating the valuation of tangible and intangible assets as a percentage of the *total valuation of an enterprise* as of a specific point in time. The present invention, by contrast, determines the value potential of individual future financial value streams of an enterprise over time.

In sum, the value streams of the present invention cannot be correlated with the value drivers in Eder. Therefore, Eder does not disclose future value streams as they are defined in the present invention.

(b) Eder does not disclose any methods for the analysis of individual value streams

Even if, *assuming arguendo*, Eder did disclose future value streams as they are defined in the present invention, it does not disclose any method for the analysis of those value streams. Eder breaks current-operation value down into three components: revenue value, expense value, and capital value. (*Id.* at 11:1-35.) Of these, the only component that could possibly bear any resemblance to a value stream as defined in the present invention is revenue value. But while expense value and capital value are further broken down into sub-components for analysis, Eder

specifically notes that “the revenue value is not subdivided.” (*Id.* at 11:25-26.) Eder again notes that “there is only one revenue component per enterprise” and “each enterprise has: one revenue component.” (*Id.* at 19:18-19; 19:21-22.) Although Eder contemplates replacing an “enterprise” with a division of that enterprise, it does not disclose breaking an enterprise down into individual value streams for analysis. Therefore, Eder does not disclose any methods for the analysis of a future financial value stream of an enterprise.

(c) Eder does not disclose the method for determining present value of a future value streams in the present invention

Even if, *assuming arguendo*, Eder did disclose a method for the analysis of a future value stream, it would not satisfy the limitations related to determining the present value of an individual value stream as set forth in any of the claimed inventions.

Claim 1 of the present application requires “determining, by use of the computer system, a first present value of the future financial value stream of the business enterprise by aggregating the influences on the future financial value stream attributable to the assumed variables,” where “the assumed variables” refers to “one or more assumed variables that have an influence on a future financial value stream of the business enterprise” and where each assumed variable is tied to “at least one future or past event ... that influences the corresponding assumed variable.” The application’s other independent claims have similar limitations.

As explained in earlier amendments and responses that are incorporated by reference, the concept of “events” linked to assumed variables is entirely absent from Eder. The word “event” occurs only once in the Eder specification as one attribute of sales management systems. (15:39) There is no suggestion anywhere in Eder that the components of value, elements of value, or value drivers are in any way tied to events. In other words, there is no suggestion in Eder that any variables are linked to specific events, let alone an assertion, as in the present invention, *that*

each and every assumed variable is linked to one or more events. Indeed, the Examiner has conceded that “Eder does not explicitly disclose data indicating the occurrence or non-occurrence of one or more future events.” *Office Action of April 7, 2006 at p. 3; Office Action of June 29, 2005 at p. 4.* If Eder does not disclose data indicating the occurrence or non-occurrence of events, it cannot tie such events to its value calculations.

This is consistent with the contrasting goals of Eder versus the present invention. Eder is focused on calculating a valuation of tangible and intangible assets in relation to an overall enterprise valuation as of a particular point in time. Eder, therefore, has little need for future events. The present invention, by contrast, is focused on analysis of changes in value potential of future financial value streams as events unfold over time.

Because Eder does not mention events in relation to the variables used in its methods, it does not disclose determining the present value of a future value stream by using assumed variables that are tied to “at least one future or past event.”

(d) The present value formulas discussed by the Examiner do not remedy the deficiencies of Eder

The present value formulas discussed by the Examiner in the April 7, 2006 Office Action do not disclose determining the present value of future value streams using the methods claimed by the present application. Specifically, the Examiner’s discussion of present value calculations does not link assumed variables to the concept of “events” as required by the claims of the present invention.

The discounting concepts and present value formulas discussed by the Examiner do little more than mirror the brief discussion of discounting in Eder at 10:40-67. Because Eder discloses neither a general method for analyzing an individual value stream nor a specific method of determining the present value of a future value stream by linking variables to events, the

Examiner's discounting discussion is also deficient in this regard to the extent that it mirrors Eder. Specifically, the Examiner's present value formulas do not link assumed variables to events.

The only part of the Examiner's discounting discussion purporting to overcome the deficiencies of Eder is the bare statement that "discounting future cash flows satisfies [the limitation requiring at least one future or past event to be associated with each assumed variable]." Examiner provides no support for this naked assertion and no explanation of how discounting future cash flows alone creates an event that is tied to an assumed variable that has an influence on a future value stream.

Indeed, the mere discounting of cash flows is disclosed in Eder itself: "discounting the cash flows at a rate that reflects the risk associated with realizing the cash flow." (10:48-49) And merely reciting a portion of a reference cannot overcome a deficiency of that same reference.

Overall, therefore, the Examiner merely discussed the basic present value formula from Eder at length. Accordingly, his discussion cannot overcome the deficiency in Eder of not disclosing the specific method of determining the present value of a future value stream by linking variables to events.

3. Phillips fails to disclose modeling future value streams of a business enterprise based on the occurrence or non-occurrence of "events"

All of the claimed inventions in the present application recite a unique relationship between future financial value streams and events. In the claimed inventions, each assumption (or "assumed variable") that is used to calculate a value stream is tied to one or more past or future events. The present invention may be described as being "event-driven," in that each assumption is linked to one or more past or projected events that have or are expected to

influence the related assumption.³ An aspect of the analysis provided by the present invention is how the occurrence or non-occurrence of events changes the expected benefits associated with a value stream.

As noted above, the Examiner has conceded that Eder does not disclose data indicating the occurrence or non-occurrence of future events. The Examiner, however, has suggested that this feature is somehow disclosed by Phillips. Particularly, the Examiner says that “it would have been obvious to modify the disclosure of Eder and include the occurrence or non-occurrence of one or more future events, as disclosed by Phillips, to analyze the impact of events on the future value of the corporation or commodity.” *Office Action of April 7, 2006 at pp. 3-4.* The Examiner’s conclusion is incorrect, however, because Phillips does not disclose analyzing the impact of events on future financial value streams of a business enterprise.

Phillips relates to forecasting based on clusterization of forecasters into groups based on their predictions. This has no relevance to the claimed inventions, and in particular, to analyzing the impact of events on future financial value streams of a business enterprise. The Examiner’s analysis of Phillips confuses the fundamental difference between a “prediction” and an “assumption,” and is further based on a clear misunderstanding of the term “prediction event” as used in Phillips.

A “prediction” is a statement about the future that the predictor believes to be true. Someone making a prediction is in effect saying: “I believe that in the future the value of ‘x’

³ See, for example and without limitation, Claims 1, 17, 21, 29, 37, 44: “developing a data structure, by use of a computer system, including one or more assumed variables that have an influence on a/the future financial value stream of the business enterprise and *at least one future or past event linked to each assumed variable that influences the corresponding assumed variable*”; Claim 9: “developing a data structure, by use of a computer system, including a plurality of future financial value streams, each future financial value stream having one or more assumed variables that have an influence on a future financial value stream of the business enterprise *and at least one future or past event linked to each assumed variable that influences the corresponding assumed variable...*”

will be 'y'." For instance, a forecaster might predict that the stock price of XYZ Company will be \$50 in three months time.

By contrast, an "assumption" (or "assumed variable") is postulated as a hypothesis. Someone who specifies an "assumed variable" in a model is in effect saying: "If I assume that the value of 'x' is 'y', what is the implication for 'z'?" For example, a mathematician might say: "if $z = 3 + x$, and I assume that the value of $x = 2$, then the implication is that z would equal 5." Clearly, in this example, the mathematician is not predicting that the value of $x = 2$, but rather exploring the implication for z of making that assumption.

The claimed inventions analyze value creation over time for the value streams of a business enterprise based on a data structure in which assumed variables are linked to one or more events. The purpose of linking the assumed variables to events is not to make "predictions" concerning the assumed variables, but rather to enable the users of the system to analyze the implications for the value creation potential of the enterprise as events occur or do not occur.⁴

Phillips does not disclose or suggest linking assumed variables to the occurrence or non-occurrence of one or more future events to analyze the impact of events on the future value of the corporation or commodity. By contrast, Phillips describes methods for combining the predictions of various forecasters into a combination forecast based on clustering the forecasters into groups based on statistical analysis related to the accuracy of prior forecasts.

⁴ For example and without limitation, by linking each assumed variable to events, as one moves forward in time, it will eventually be possible to convert every variable in the data structure from an "assumption" to a "certainty." In other words, as the events specified in the data structure occur or do not occur, it becomes possible to adjust the linked "assumptions" to "actuals." The "calculation of a second present value of a future financial value stream taking into account the one or more assumed variables that changed in response to the occurrence or non-occurrence of the one or more of the future events" is not based on a prediction. Rather, it is based on converting what was previously an "assumption" or hypothesis into an "actual", based on whether the event to which the assumed variable is linked occurred, or did not occur, in accordance with the assumptions in the data structure.

The first citation provided by the Examiner (C25, L24-36) is a commentary on Figure 5A of the Phillips specification, which shows a graph for predicting the value of a particular stock. *Office Action of April 7, 2006 at p. 3.* The cited text simply explains that the referenced graph includes historical values of the stock, and bands which indicate predicted future values of the stock. There is nothing in this cited reference that relates to linking assumed variables to events, or tracking the impact on the assumed variables of the occurrence or non-occurrence of events.

The second citation provided by the Examiner (C64, L36 to C66, L7) includes Claims 34, 35 and 36 of the Phillips specification. *Id.* The claims relate to methods for producing combination forecasts for a “prediction event,” which is a contest or occasion in which multiple forecasters provide their predictions with respect to a value of a financial and/or economic measure.

Specifically, Phillips Claim 34 refers to methods in which the statistical data used to cluster the forecasters are calculated only with respect to the forecasters who have participated in a given prediction event (e.g., a contest).

Phillips Claim 35 refers to methods for providing combination forecasts from a group of forecasters based on clustering them into groups using statistical techniques based on their track record in previous prediction events or contests. Phillips Claim 36 refers to an apparatus that accomplishes the methods referred to in Claim 35.

There is no similarity whatsoever between the term “prediction event” used in Phillips, and the term “event” used in the claimed inventions. A prediction event in Phillips is an occasion, such as a contest, in which multiple forecasters make predictions concerning the same financial and/or economic measure. This is not relevant to the term “event” as used in the claimed inventions. For example, the “prediction events” in Phillips do not have any relation to

or effect on a future financial value stream of a business enterprise. Further, these “prediction events” are not linked to or influence any assumed variables in a data structure, as required by all of the claims in the present application.

Moreover, the emphasis in Phillips on ranking participants in prediction contests actually *teaches away* from the claimed invention. Phillips repeatedly encourages finding an accurate prediction by ranking individuals “based on their relative accuracies in individual prediction events.” (*E.g.*, 6:50-61, 7:9-11, 32-33, 57-60) In other words, Phillips solicits predictions from multiple people and then chooses the most reliable prediction based on the accuracy of those people’s past predictions. Phillips, therefore, finds reliability in predictions based on *past events* – the individuals’ past performance. The more past predictions that are considered, the better Phillips can predict the reliability of a current prediction. Phillips’s emphasis on past predictions is at odds with the claimed invention, which uses assumptions about *future events* to analyze the impact of those future events on a future financial value stream. In the claimed invention, the more *future events* that are considered (using assumed variables), the more reliable the analysis of the future financial stream. Thus, Phillips teaches away from the claimed invention.

The Examiner has provided no response to these deficiencies in Phillips other than a trivial attack on the applicant’s one-time use of the word “modeling” to refer to the act of tying a future value stream to the occurrence or non-occurrence of one or more events. *Office Action of April 7, 2006 at p. 25; see Applicant’s December 29, 2005 Response to Office Action at p. 3.* Regardless of whether tying events to a value stream in such a manner is best characterized as “modeling,” “defining,” “creating,” “shaping,” or “forming,” the glaring deficiencies of Phillips remain. Phillips does not disclose analyzing the impact of events on future financial value streams of a business enterprise

In sum, the Examiner's tortured application of Phillips cannot supply any of the limitations that are missing from Eder concerning the relationship between events, assumed variables, and future financial value streams. For at least these reasons, Applicant requests that the Board overturn all rejections of the pending claims.

4. There is no suggestion or motivation for the proposed combination of Eder and Phillips.

The Examiner has failed to point to any suggestion or motivation in the prior art to combine the identified teachings of Eder and Phillips.

It is well-settled that "a showing of a suggestion, teaching, or motivation to combine [or modify] the prior art references is an 'essential component of an obviousness holding'." *C.R. Bard, Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1352 (Fed. Cir. 1998). The Examiner can satisfy the burden of showing obviousness of the combination or modification "only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references." *In re Fritch*, 972 F.2d 1260, 1265 (Fed. Cir. 1992). Determination of obviousness cannot be based on the hindsight combination of components selectively culled from the prior art to fit the parameters of the patented invention. *ATD Corp. v. Lydall, Inc.*, 159 F.3d 534, 546 (Fed. Cir. 1998).

In rejecting Claims 1, 9, and 29 in light of Eder and Phillips, the Examiner says that "[i]t would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Eder and include occurrence or non-occurrence of one or more of the future events, as disclosed by Phillips, to analyze the impact of events on the future value of the corporation or a commodity." *Office Action of April 7, 2006 at pp. 4, 8, 15-16*. As discussed above, however, Phillips does not disclose modeling future value streams on the

occurrence or non-occurrence of events. Thus, there can be no motivation to combine Phillips with Eder in order to analyze the impact of events on future value streams because neither reference discloses such an analysis.

Moreover, even if some part of Phillips taught modeling future value streams on future events, the Examiner has still failed to provide any motivation to combine these two references. In attempting to point to a motivation to combine Eder and Phillips, the Examiner says that one would combine these references “[to] estimate the present value of the expected firm (corporation, future value of commodity or an item) specific information (increase/decrease future value/income, sale, or etc.) [see Phillips provided reference; C25 L24-L36; C64 L36 to C66 L7] [sic].” But this alleged motivation makes no reference to either the occurrence or non-occurrence of events or to analyzing the impact of events on future value streams. Indeed, as discussed above, the two citations to Phillips provided by the Examiner have nothing to do with analyzing future value streams based on the occurrence or non-occurrence of events. The Examiner has simply used Appellant’s claims as a blueprint to selectively cull elements from the prior art and combine them in a failed attempt to fit the parameters of the claimed invention.

Because the Examiner has failed to point to any evidence of record showing a motivation to combine the identified features of Eder and Phillips, the Examiner has failed to satisfy his burden of showing *prima facie* obviousness of the combination of Eder and Phillips. Accordingly, the Board should overturn all rejections of the pending claims.

B. Claims 4, 12, 25, 31, 40, and 47 are patentable over the combination of Eder, Phillips, and Pilipovic

The Examiner has rejected Claims 4, 12, 25, 31, 40, and 47 under 35 U.S.C. § 103(a) as being unpatentable over Eder, in view of Phillips, and in further view of U.S. Patent No. 6,456,982 to Pilipovic, et al. (hereinafter “Pilipovic”). *Office Action of April 7, 2006 at p. 22.*

The Board should overturn these rejections because Eder and Phillips fail to teach the limitations of the related parent claims, because Pilipovic does not disclose the claimed “reliability index” and because there is no evidence of a motivation to combine Pilipovic with Eder and Phillips.

Pilipovic generally discloses a computer simulation system for generating and testing projected data. (7:50-62) The Examiner relies on Pilipovic, asserting that it “discloses a reliability index (projection distribution) that is indicative of relative magnitudes of the present value of the future financial value stream attributable to past events and the present value of the future financial value stream attributable to future events [Figure 14b, 14d; C1 L21 to C2 L50; C3 L30-L38; C16 L10-L16].” *Office Action of April 7, 2006 at p. 22.*

The cited Figure 14b refers to market price volatility measured over time, and the cited Figure 14d refers to market price correlations measured over time. Column 1, line 21 through column 2, line 50 describes the background of Pilipovic as being related to mathematical and statistical techniques used to estimate the likelihood of future events. Column 3, lines 30 to 38 refer to calculating a “probability distribution” of future cash flow which could be used to determine the price that one could pay today in order to receive an uncertain cash flow. Column 16, lines 10 to 16 refer to the possibility of constructing such a probability distribution based on a statistical analysis of historical forward price behavior.

None of these sections disclose the claimed reliability index “that is indicative of relative magnitudes of the present value of the future financial value stream attributable to past events and the present value of the future financial value stream attributable to future events” (*Claims 4, 25, 31, 40, and 47*) or the claimed reliability index “that is indicative of relative magnitudes of the second aggregate present value of the plurality of future financial value streams and an

aggregation of present values of the plurality of future financial value streams attributable to past transactions.” *Claim 12*

In the claimed invention, the assumptions that are used to calculate the present value of a value stream are related to past or future events. It is therefore possible to separate out the assumptions that are linked to past events from those linked to future events. It is therefore further possible to calculate that portion of the present value of a value stream that is linked to past events from that portion of the present value stream that is linked to events that have not yet occurred.

For example, as noted in the pending application, “the reliability index may be determined from the following formula:

$$\text{reliability index} = PV_p / (PV_f + PV_p)$$

where PV_p is the PV attributable to past events (and related assumptions) and PV_f is the PV attributable to future events (and related assumptions). The higher the result (expressed as a fraction of 1), the greater the reliability of the estimate. It will be apparent that PV_f and PV_p may be combined in another way to determine a reliability index.

The reliability index provides a comparative indication of the degree to which calculated outcomes (e.g., present values) are attributable to assumptions based on events that have already occurred, versus assumptions based on future events. For example, if future sales projections are based on achieving a certain market share, and that market share has already been achieved, one would be inclined to place more reliance on those projections than if all required market gains were still in the future.” *Appellant’s Specification as filed at p. 26.*

The reliability index in the present invention is *not* an attempt to determine the probability of future events. It is not based on developing a probability distribution of future

events in order to make decisions. It does not “calculate and predict the uncertain future value forecast and goal to meet.” *Office Action of April 7, 2006 at p. 22.*

Probability factors are used in the present invention to calculate the expected value of a value stream. But the use of probability factors in the present invention has nothing to do with the reliability index.

The reliability index in the present invention is a different concept. It differentiates between that portion of the present value of a value stream that is related to events that have already occurred, versus that portion of the present value that is related to events that are still to occur in the future.

The present invention’s reliability index does not differentiate between future events with a higher or lower probability. The only thing that matters is the difference between events that have already occurred in the past (where then outcome is known), and events that are still to occur in the future, where the outcome is still unknown.

Consequently, Pilipovic does not disclose the claimed reliability index, and it cannot be concluded that “it would have been obvious at the time the invention was made to a person having ordinary skills in the art in financial reliability and risk assessment to modify the disclosure of Eder and include reliability index, as taught by Pilipovic.” *Office Action of April 7, 2006 at p. 22.*

Moreover, the rejection of these claims is based on the assumption that their parent claims are unpatentable over Eder in view of Phillips. Because those parent claims are indeed patentable over Eder and Phillips, as discussed above, this assumption is false. Accordingly, the rejection of these claims in light of Eder, Phillips, and Pilipovic should be overturned.

Finally, there is no evidence of a motivation to combine Eder and Phillips, as discussed above, much less evidence of a motivation to combine Eder and Phillips and Pilipovic in the proposed manner. Accordingly, the Board should overturn the rejection of these claims. *C.R. Bard, supra.*

C. Conclusion

In view of the foregoing arguments, Claims 1-52 are patentable over Eder, Phillips, and Pilipovic, and all proposed combinations of those references.

The Commissioner is authorized to charge any additional fees which may be required, including petition fees and extension of time fees, to Deposit Account No. 07-1896 referencing Attorney Docket No. 350725-991100. This paper is submitted in triplicate.

Respectfully submitted,

DLA Piper US LLP

By: 

David Alberti
Reg. No. 43,465
Attorneys for Applicant

Dated: October 10, 2006

ATTN: Patent Department
DLA Piper US LLP
2000 University Avenue
East Palo Alto, CA 94303-2248
Tel: (650) 833-2000
Fax: (650) 833-2001

CLAIMS APPENDIX

1. (previously presented): A computer-implemented method of processing data relating to the performance of a business enterprise in creating value, comprising:

developing a data structure, by use of a computer system, including one or more assumed variables that have an influence on a future financial value stream of the business enterprise and at least one future or past event linked to each assumed variable that influences the corresponding assumed variable;

determining, by use of the computer system, a first present value of the future financial value stream of the business enterprise by aggregating the influences on the future financial value stream attributable to the assumed variables and adjusting the future financial value stream for a time value of money;

receiving as input into the computer system data from a user indicating the occurrence or non-occurrence of one or more of the future events;

determining, by use of the computer system and in response to the occurrence or non-occurrence of one or more of the future events, whether one or more of the assumed variables have changed and whether the influenced future financial value stream has changed; and

determining, by use of the computer system, a second present value of the future financial value stream taking into account the one or more assumed variables that changed in response to the occurrence or non-occurrence of the one or more of the future events.

2. (original): The method according to claim 1, wherein determining the first present value further comprises adjusting the future financial value stream by an assessed probability that the influences on the future financial value stream will be realized, and determining the second present value further comprises adjusting the future financial value stream by an assessed probability that the influences on the future financial value stream will be realized taking into account an assessed probability that changed in response to the occurrence or non-occurrence of the one or more of the future events.

3. (original): The method according to claim 1, wherein the future financial value stream is associated with activities of the business enterprise necessary to give rise to the events associated with the future financial value stream.

4. (original): The method according to claim 1, further comprising:
determining a present value of the future financial value stream by aggregating influences on the future financial value stream attributable to past events; and
determining a reliability index that is indicative of relative magnitudes of the present value of the future financial value stream attributable to past events and the present value of the future financial value stream attributable to future events.

5. (original): The method according to claim 1, wherein the events and assumed variables collectively form a base case scenario for the business enterprise, and the first present value of the future financial value stream is based upon the base case scenario, the method further comprising:

changing one or more of the assumed variables, to form an alternate scenario
including the changed assumed variables;
determining the present value of the future financial value stream based upon the
alternate scenario; and
comparing the present value of the future financial value stream based upon the
alternate scenario to the first present value of the future financial value stream based upon
the base case scenario.

6. (original): The method according to claim 1, further comprising selecting a stakeholder
perspective from among a plurality of stakeholder perspectives for determining the first and
second present values of the future financial value stream.

7. (original): The method according to claim 1, further comprising selecting two or more
stakeholder perspectives from among a plurality of stakeholder perspectives for determining the
first and second present values of the future financial value stream.

8. (original): The method according to claim 1, wherein the first present value is determined
with respect to a first date and the second present value is determined with respect to a second
date, and the method further comprises:

determining a variance between the first present value and the second present
value taking into account the time value of money between the first and second dates; and
attributing the variance between the first present value and the second present
value to events that occurred between the first and second dates.

9. (previously presented): A computer-implemented method of processing data relating to the performance of a business enterprise in creating value, comprising:

developing a data structure, by use of a computer system, including a plurality of future financial value streams, each future financial value stream having one or more assumed variables that have an influence on a future financial value stream of the business enterprise and at least one future or past event linked to each assumed variable that influences the corresponding assumed variable;

determining, by use of the computer system, a present value of each future financial value stream by aggregating the influences on the future financial value stream attributable to the assumed variables of the future financial value streams and adjusting the future financial value streams for a time value of money;

aggregating the present value of each future financial value stream to form a first aggregate present financial value of the plurality of future financial value streams;

receiving as input into the computer system data from a user indicating the occurrence or non-occurrence of one or more of the future events;

determining, by use of the computer system and in response to the occurrence or non-occurrence of one or more of the future events for one or more of the future financial value streams, whether one or more of the assumed variables have changed and whether the influenced future financial value stream has changed; and

forming a second aggregate present value of the plurality of future financial value streams taking into account the one or more assumed variables that changed in response to the occurrence or non-occurrence of the one or more of the future events.

10. (original): The method according to claim 9, wherein determining the present value of each future financial value stream further comprises adjusting the future financial value stream by an assessed probability that the influences on the future financial value stream will be realized.

11. (original): The method according to claim 9, wherein each of the plurality of future financial value streams is associated with activities of the business enterprise necessary to give rise to the events associated with the corresponding future financial value stream.

12. (original): The method according to claim 9, further comprising:

determining a present value of each of the plurality of future financial value streams by aggregating influences on each of the future financial value streams attributable to past transactions; and

determining a reliability index that is indicative of relative magnitudes of the second aggregate present value of the plurality of future financial value streams and an aggregation of present values of the plurality of future financial value streams attributable to past transactions.

13. (original): The method according to claim 9, wherein the events and assumed variables for each of the plurality of future financial value streams collectively form a base case scenario for the business enterprise, and the first aggregate present value of the plurality of future financial value streams is based upon the base case scenario, the method further comprising:

changing one or more of the assumed variables, to form an alternate scenario
including the changed assumed variables;

determining an aggregate present value of the plurality of future financial value
streams based upon the alternate scenario; and

comparing the aggregate present value of the plurality of future financial value
streams based upon the alternate scenario to the first aggregate present value of the
plurality of future financial value streams based upon the base case scenario.

14. (original): The method according to claim 9 further comprising selecting a stakeholder
perspective from among a plurality of stakeholder perspectives for determining the first and
second aggregate present value of the plurality of future financial value streams.

15. (original): The method according to claim 9, further comprising selecting two or more
stakeholder perspectives from among a plurality of stakeholder perspectives for determining the
first and second aggregate present value of the plurality of future financial value streams.

16. (original): The method according to claim 9, wherein the first aggregate present value is
determined with respect to a first date and the second aggregate present value is determined with
respect to a second date, and the method further comprises:

determining a variance between the first aggregate present value and the second
aggregate present value taking into account the time value of money between the first and
second dates; and

attributing the variance between the first aggregate present value and the second aggregate present value to events that occurred between the first and second dates.

17. (previously presented): A computer-implemented method of processing data relating to the performance of a business enterprise in creating value, comprising:

developing a data structure, by use of a computer system, including one or more assumed variables that have an influence on a future financial value stream of the business enterprise and at least one future or past event linked to each assumed variable that influences the corresponding assumed variable;

determining, by use of the computer system, a first present value of the future financial value stream of the business enterprise as of a first specified date by aggregating the influences on the future financial value stream attributable to the assumed variables and adjusting the future financial value stream for a time value of money;

determining, by use of the computer system, a second present value of the future financial value stream of the business enterprise as of a second specified date by aggregating the influences on the future financial value stream attributable to the assumed variables and adjusting the future financial value stream for a time value of money;

determining, by use of the computer system, a variance between the first present value and the second present value taking into account a time value of money between the first and second dates; and

attributing the variance between the first present value and the second present value to events that occurred between the first and second specified dates.

18. (original): The method according to claim 17, wherein determining a first present value further comprises adjusting the future financial value stream by an assessed probability that the influences on the future financial value stream will be realized, and determining the second present value further comprises adjusting the future financial value stream by an assessed probability that the influences on the future financial value stream will be realized.

19. (original): The method according to claim 17, further comprising selecting a stakeholder perspective from among a plurality of stakeholder perspectives for determining the first and second present values of the future financial value stream.

20. (original): The method according to claim 17, further comprising:

determining a present value of each of a plurality of additional future financial value streams; and

aggregating the present value of the future financial value stream and the plurality of additional future financial value streams to form an aggregate present financial value of future financial values streams

21. (previously presented): A computer-implemented method of processing data relating to the performance of a business enterprise in creating value, comprising:

selecting a stakeholder perspective from among a plurality of stakeholder perspectives for determining a present value of a future financial value stream of the business enterprise;

developing, by use of a computer system, a data structure including one or more assumed variables that have an influence on the future financial value stream of the business enterprise from the perspective of the selected stakeholder and at least one future or past event for linked to each assumed variable that influences the corresponding assumption; and

determining, by use of the computer system, a present value of the future financial value stream of the business enterprise from the perspective of the selected stakeholder by aggregating the influences on the future financial value stream attributable to the assumed variables and adjusting the future financial value stream for a time value of money.

22. (original): The method according to claim 21, wherein determining the present value further comprises adjusting the future financial value stream by an assessed probability that the influences on the future financial value stream will be realized.

23. (original): The method according to claim 21, wherein the future financial value stream is associated with activities of the business enterprise necessary to give rise to the events associated with the future financial value stream.

24. (original): The method according to claim 21, further comprising selecting one or more additional stakeholder perspectives from among the plurality of stakeholder perspectives for determining the first present value of the future financial value stream.

25. (original): The method according to claim 21, further comprising:

- determining a present value of the future financial value stream by aggregating influences on the future financial value stream attributable to past events; and
- determining a reliability index that is indicative of relative magnitudes of the present value of the future financial value stream attributable to past events and the present value of the future financial value stream attributable to future events.

26. (original): The method according to claim 21, wherein the events and assumed variables collectively form a base case scenario for the business enterprise, and the present value of the future financial value stream is based upon the base case scenario, the method further comprising:

- changing one or more of the assumed variables, to form an alternate scenario including the changed assumed variables;
- determining the present value of the future financial value stream based upon the alternate scenario; and
- comparing the present value of the future financial value stream based upon the alternate scenario to the first present value of the future financial value stream based upon the base case scenario.

27. (original): The method according to claim 21, further comprising:

- determining a present value of each of a plurality of additional future financial value streams from the perspective of the selected stakeholder; and

aggregating the present value of the future financial value stream and the plurality of additional future financial value streams to form an aggregate present financial value of future financial values streams.

28. (original): The method according to claim 21, further comprising repeatedly determining and presenting a series of updated present values of the future financial value stream, each updated present value determined from the events and assumed variables in the data structure including any assumed variables that have changed in response to the occurrence or non-occurrence of one or more of the future events.

29. (previously presented): A computer-implemented method of processing data relating to the performance of a business enterprise in creating value, comprising:

developing a data structure, by use of a computer system, including one or more assumed variables that have an influence on a future financial value stream of the business enterprise and at least one future or past event linked to each assumed variable that influences the corresponding assumed variable;

identifying and segregating risks specific to the future financial value stream from risks specific to the business enterprise or industry as a whole;

assigning probabilities to the events or assumed variables based on the identified risks;

determining, by use of the computer system, a first present value of the future financial value stream of the business enterprise by aggregating the influences on the future financial value stream attributable to the assumed variables, adjusting the future

financial values stream by the assigned probabilities, and further adjusting the future financial value stream for a time value of money;

receiving as input into the computer system data from a user indicating the occurrence or non-occurrence of one or more of the future events;

determining, by use of the computer system and in response to the occurrence or non-occurrence of one or more of the future events, whether one or more of the assumed variables have changed and whether the influenced future financial value stream has changed; and

determining, by use of the computer system, a second present value of the future financial value stream taking into account the one or more assumed variables that changed in response to the occurrence or non-occurrence of the one or more of the future events.

30. (original): The method according to claim 29, wherein the future financial value stream is associated with activities of the business enterprise necessary to give rise to the events associated with the future financial value stream.

31. (original): The method according to claim 29, further comprising:

determining a present value of the future financial value stream by aggregating influences on the future financial value stream attributable to past events; and

determining a reliability index that is indicative of relative magnitudes of the present value of the future financial value stream attributable to past events and the present value of the future financial value stream attributable to future events.

32. (original): The method according to claim 29, wherein the events and assumed variables collectively form a base case scenario for the business enterprise, and the first present value of the future financial value stream is based upon the base case scenario, the method further comprising:

- changing one or more of the assumed variables, to form an alternate scenario
- including the changed assumed variables;
- determining the present value of the future financial value stream based upon the alternate scenario; and
- comparing the present value of the future financial value stream based upon the alternate scenario to the first present value of the future financial value stream based upon the base case scenario.

33. (original): The method according to claim 29, further comprising selecting a stakeholder perspective from among a plurality of stakeholder perspectives for determining the first and second present values of the future financial value stream.

34. (original): The method according to claim 29, further comprising selecting two or more stakeholder perspectives from among a plurality of stakeholder perspectives for determining the first and second present values of the future financial value stream.

35. (original): The method according to claim 29, wherein the first present value is determined with respect to a first date and the second present value is determined with respect to a second date, and the method further comprises:

determining a variance between the first present value and the second present value taking into account the time value of money between the first and second dates; and
attributing the variance between the first present value and the second present value to events that occurred between the first and second specified dates.

36. (original): The method according to claim 29, further comprising:

determining a present value of each of a plurality of additional future financial value streams; and
aggregating the present value of the first future financial value stream and the plurality of additional future financial value streams to form an aggregate present financial value of future financial values streams.

37. (previously presented): A computer-implemented method of processing data relating to the performance of a business enterprise in creating value, comprising:

developing, by use of a computer system, a data structure including one or more assumed variables that have an influence on a future financial value stream of the business enterprise and at least one future or past event linked to each assumed variable that influences the corresponding assumed variable;
determining, by use of the computer system, a present value of the future financial value stream of the business enterprise by aggregating the influences on the future

financial value stream attributable to the assumed variables and adjusting the future financial value stream for a time value of money, wherein the events and assumed variables collectively form a base case scenario for the business enterprise, and the first present value of the future financial value stream is based upon the base case scenario;

changing one or more of the assumed variables, to form an alternate scenario including the changed assumed variables;

determining, by use of the computer system, the present value of the future financial value stream based upon the alternate scenario; and

comparing the present value of the future financial value stream based upon the alternate scenario to the first present value of the future financial value stream based upon the base case scenario.

38. (original): The method according to claim 37, wherein determining the present value further comprises adjusting the future financial value stream by an assessed probability that the influences on the financial value stream will be realized.

39. (original): The method according to claim 37, wherein the future financial value stream is associated with activities of the business enterprise necessary to give rise to the events associated with the future financial value stream.

40. (original): The method according to claim 37, further comprising:

determining a present value of the future financial value stream by aggregating influences on the future financial value stream attributable to past events; and

determining a reliability index that is indicative of relative magnitudes of the present value of the future financial value stream attributable to past events and the present value of the future financial value stream attributable to future events.

41. (original): The method according to claim 37, further comprising selecting a stakeholder perspective from among a plurality of stakeholder perspectives for determining the present value of the future financial value stream.

42. (original): The method according to claim 37, further comprising selecting two or more stakeholder perspectives from among a plurality of stakeholder perspectives for determining the present value of the future financial value stream.

43. (original): The method according to claim 37, further comprising:
determining a present value of each of a plurality of additional future financial value streams; and
aggregating the present value of the first future financial value stream and the plurality of additional future financial value streams to form an aggregate present financial value of future financial values streams.

44. (previously presented): A computer-implemented method of processing data relating to the performance of a business enterprise in creating value, comprising:

developing, by use of a computer system, a data structure including one or more assumed variables that have an influence on a future financial value stream of the

business enterprise and at least one future or past event linked to each assumed variable that influences the corresponding assumed variables;

determining, by use of the computer system, a first present value of the future financial value stream of the business enterprise by aggregating the influences on the future financial value stream attributable to the assumed variables and adjusting the future financial value stream for a time value of money; and

repeatedly determining and presenting a series of updated present values of the future financial value stream, each updated present value determined from the events and assumed variables in the data structure including any assumed variables that have changed in response to the occurrence or non-occurrence of one or more of the future events.

45. (original): The method according to claim 44, wherein determining the first present value and determining each updated present value further comprise adjusting the future financial value stream by an assessed probability that the influences on the future financial value stream will be realized.

46. (original): The method according to claim 44, wherein the future financial value stream is associated with activities of the business enterprise necessary to give rise to the events associated with the future financial value stream.

47. (original): The method according to claim 44, further comprising:

determining a present value of the future financial value stream by aggregating influences on the future financial value stream attributable to past events; and

determining a reliability index that is indicative of relative magnitudes of the present value of the future financial value stream attributable to past events and the present value of the future financial value stream attributable to future events.

48. (original): The method according to claim 44, wherein the events and assumed variables collectively form a base case scenario for the business enterprise, and the first present value of the future financial value stream is based upon the base case scenario, the method further comprising:

changing one or more of the assumed variables, to form an alternate scenario including the changed assumed variables;

determining the present value of the future financial value stream based upon the alternate scenario; and

comparing the present value of the future financial value stream based upon the alternate scenario to the first present value of the future financial value stream based upon the base case scenario.

49. (original): The method according to claim 44, further comprising selecting a stakeholder perspective from among a plurality of stakeholder perspectives for determining the first and second present values of the future financial value stream.

50. (original): The method according to claim 44, further comprising selecting two or more stakeholder perspectives from among a plurality of stakeholder perspectives for determining the first and second present values of the future financial value stream

51. (original): The method according to claim 44, wherein the first present value is determined with respect to a first date and a selected one of the updated present values is determined with respect to a second date, and the method further comprises:

determining a variance between the first present value and the selected updated present value taking into account the time value of money between the first and second dates; and

attributing the variance between the first present value and the selected updated present value to events that occurred between the first and second dates.

52. (original): The method according to claim 44, further comprising:

determining a present value of each of a plurality of additional future financial value streams; and

aggregating the present value of the first future financial value stream and the plurality of additional future financial value streams to form an aggregate present financial value of future financial values streams.

EVIDENCE APPENDIX

NONE

RELATED PROCEEDINGS APPENDIX

NONE